

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

=====X  
UNITED STATES OF AMERICA,

AFFIDAVIT

- against -

Indictment No. 07 Crim. 732

OSCAR LEMUS,

Defendant.

=====X  
STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF WESTCHESTER )

**OSCAR LEMUS**, being duly sworn, deposes and says:

1. Your deponent is the defendant herein and is fully familiar with all the facts and circumstances heretofore had herein. I make this affidavit in support of my application for certain omnibus relief.

2. On June 12, 2007, at or about 10:00 a.m., I was working in the Town of Stony Point, County of Rockland and State of New York. At that time, I received a telephone call on my cell phone from an individual representing himself to be a representative of the gas company and advising me that I had to immediately return to my home since there was a gas leak. I advised this individual that there were other people at my home and I would not leave work.

3. Shortly thereafter, I received a second telephone call from this individual who then identified himself as an agent with the Immigration & Naturalization Services. I was advised by this agent that I had to return to my home immediately. When I advised the agent that I could not leave work and did not have to cooperate since my immigration status was legal, he advised that if I did not immediately give my location to the agent, that within five minutes

my legal status would be revoked and I would be illegal. Under this threat, I advised the agent as to my location.

4. At or about 10:30 a.m., this agent appeared at my workplace in the Town of Stony Point, County of Rockland and State of New York. At that time, I was told to move away from my co-workers towards the agent's car. My wallet and cell phone were seized from me without my consent and I was physically pushed into the back of the agent's car by the agent against my will. I was transported by the agent to the Stony Point Police Department where I was kept for approximately five to six hours. I was never shown an arrest or search warrant.

5. I was questioned for a substantial period of time at the Stony Point Police Department. I objected to the fact that the questions were in English and demanded a Spanish interpreter. A Spanish interpreter arrived at approximately 12:30 p.m.

6. After a lengthy time of questioning, the questioning ceased and I was put into a jail cell. At approximately 3:30 p.m., while I was in the jail cell, I was finally given my **Miranda** warnings. This was after all the questioning in Stony Point was terminated and was the first time I was given these warnings.

7. At approximately 3:45 p.m., I was transported from Stony Point to Spring Valley. I arrived at Spring Valley at approximately 4:00 p.m., at which time I was photographed, fingerprinted, and booked.

8. At approximately 4:45 p.m., I was put in a cell in Spring Valley.

9. It was not until approximately 6:00 or 7:00 p.m. that I was once again questioned in Spring Valley. This was the first time I was questioned after **Miranda** warnings had been given.

10. At approximately 4:00 p.m. while I was in Spring Valley, I was finally permitted to telephone a friend and I requested my friend to obtain a lawyer for me. As a result of this telephone call, an attorney, Robert Conklin, Esq., did in fact call the Spring Valley Police Station but was not permitted to speak with me, nor I with him.

11. It was not until after 10:00 p.m., almost twelve hours after my arrest, that we finally left the Spring Valley Police Department. I arrived at the Federal Courthouse at approximately 11:00 p.m.

12. Any statements I might have made I made after my arrest and were made before I was given my *Miranda* warnings or at a point in time well in excess of six hours after my arrest.

**WHEREFORE**, your deponent respectfully requests an Order of this Court suppressing any statements allegedly made, together with such other and further relief as this Court may deem just, proper and equitable.

---

**OSCAR LEMUS**

Sworn to before me this  
5<sup>th</sup> day of December, 2007

---

Notary Public